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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.

2012-89

11 **ROBYN HEEN**

12 **6103 Royal Coach Circle #B**
13 **Bakersfield, CA 93306**

14 **Registered Nurse License No. 358135**
15 **Public Health Nurse Certificate No. 34487**

16 Respondent.

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 31, 1983, the Board of Registered Nursing issued Registered
24 Nurse License Number 358135 to Robyn Heen (Respondent). The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on July
26 31, 2012, unless renewed.

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3. On or about August 12, 1983, the Board issued Public Health Nurse Certificate Number 34487 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2012 unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 118 subdivision (b) also grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

STATUTORY PROVISIONS

7. Section 2761, which is part of Article 3 of the Nursing Practice Act, provides the Board authority to, in pertinent part, discipline licensees for unprofessional conduct:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions....”

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1 8. Section 2762 provides that certain offenses relating to controlled substances are
2 considered unprofessional conduct:

3 "In addition to other acts constituting unprofessional conduct within the
4 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

5 (a) Obtain or possess in violation of law, or prescribe, or except as
6 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
7 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

8 (b) Use any controlled substance as defined in Division 10 (commencing
9 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
10 in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to
11 the public the practice authorized by his or her license.

12 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
13 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
14 which event the record of the conviction is conclusive evidence thereof.

15 (d) Be committed or confined by a court of competent jurisdiction for
intemperate use of or addiction to the use of any of the substances described in
16 subdivisions (a) and (b) of this section, in which event the court order of commitment
or confinement is prima facie evidence of such commitment or confinement.

17 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
18 unintelligible entries in any hospital, patient, or other record pertaining to the
substances described in subdivision (a) of this section."

19 REGULATIONS

20 9. Section 1442 of Title 16 of the California Code of Regulations defines gross
21 negligence as "an extreme departure from the standard of care which, under similar
22 circumstances, would have ordinarily been exercised by a competent registered nurse. Such an
23 extreme departure means the repeated failure to provide nursing care as required or failure to
24 provide care or to exercise ordinary precaution in a single situation which the nurse knew, or
25 should have known, could have jeopardized the client's health or life."

26 COST RECOVERY

27 10. Section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CONTROLLED SUBSTANCES**

4 11. Dilaudid is a trade name for hydromorphone, an opiate. It is classified as a Schedule
5 II controlled substance as defined in Health and Safety Code section 11055(b)(1)(K) and is
6 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

7 12. Vicodin is a trade name for hydrocodone and is a narcotic combination. It is
8 classified as a Schedule III controlled substance pursuant to Health and Safety Code section
9 11056(e)(4) and is categorized as a dangerous drug pursuant to Business and Professions Code
10 section 4022.

11 13. Potassium Chloride (KCL) is a prescription medication used to treat low blood levels
12 of potassium, also known as hypokalemia. As a prescription medication, it is categorized as a
13 dangerous drug under Business and Professions Code section 4022.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Making Grossly Inconsistent Entries in Hospital or Patient Records for Controlled**
16 **Substances)**

17 14. Respondent is subject to disciplinary action under section 2762, subdivision (e) for
18 making grossly inconsistent entries in hospital or patient records relating to controlled substances
19 as follows:

- 20 a. In 2007, Respondent was employed as a registered nurse at Good Samaritan Hospital
21 in Bakersfield, California.
- 22 b. At all times relevant to the charges herein, Good Samaritan Hospital used a
23 medication dispensing and recording system called the PYXIS system or PYXIS machine.
24 The PYXIS is a computerized automated medication dispensing and recording machine
25 that records the user name, patient name, medication, dose, date and time of the
26 withdrawal, and the wastage, if any.

1 c. On or about December 2, 2007 and December 7, 2007, Respondent removed 20
2 milliequivalents of KCL from the PYXIS machine to treat patients who had been
3 prescribed it, but failed to document whether she had administered it to the patients.

4 d. On or about December 8, 2007, Respondent twice documented withdrawing 4 mg of
5 the opiate Dilaudid from the PYXIS machine. She then administered the prescribed 3 mg
6 dose of it to a patient and documented this. But she failed to document or account for the
7 additional 1 mg of it that was not administered to the patient.

8 e. The hospital's procedures, which are typical of most hospitals, required practitioners
9 administering controlled substances to (1) dispose of or "waste" partial doses of controlled
10 substances not administered to patients; (2) document this wasting on the dispensing
11 machine, the PYXIS Automated Medication System; and (3) have another witness present
12 to observe the wasting and to also document on the PYXIS machine that the practitioner
13 had wasted the excess medication. The purpose of these procedures is to prevent the
14 misadministration, misuse, or misappropriation of controlled substances.

15 f. On or about December 9, 2007, Respondent thrice withdrew 4 mg of Dilaudid from
16 the dispensing machine and documented administering the prescribed 3 mg dose to the
17 patient. But she again failed to document the wasting of the additional 1 mg.

18 g. On or about December 15 to 16, 2007, a patient was prescribed 1 tablet of Vicodin
19 every 6 hours for pain to be alternated with 3 mg of Dilaudid every 6 hours as needed for
20 pain. Respondent documented overadministering these medications and improperly
21 documented their disposal. According to records prepared by Respondent, she withdrew
22 and administered 1 tablet of Vicodin to the patient at 9:58 a.m. on December 15th. 3
23 hours later, at around 12:55 p.m., she withdrew two 2 mg doses of intravenous Dilaudid
24 from the PYXIS machine, documented administering 3 mg to the patient, but failed to
25 document the wasting of the leftover 1 mg dose. About 3 hours after that, at around 4:00
26 p.m., she withdrew and administered another tablet of Vicodin. And in another 3 hours, at
27 around 6:50 p.m., she again withdrew two 2 mg doses of intravenous Dilaudid from the
28

1 PYXIS machine, documented administering 3 mg to the patient, but failed to document
2 the wasting of the leftover 1 mg dose.

3 h. The next day, the 16th, with the same patient and the same prescription, Respondent
4 did this again: at around 10 a.m, she withdrew and administered 1 tablet of Vicodin to the
5 patient; 3 hours later, at about 12:50 p.m., she withdrew two 2 mg doses of intravenous
6 Dilaudid from the PYXIS machine, documented administering 3 mg to the patient, but
7 failed to document the wasting of the leftover 1 mg dose. Less than 4 hours later, at
8 around 4:35 p.m., she withdrew and administered 1 tablet of Vicodin to the patient; less
9 than 3 hours after that, at around 6:54 p.m., she withdrew two 2 mg doses of intravenous
10 Dilaudid from the PYXIS machine, documented administering 3 mg to the patient, but
11 failed to document the wasting of the leftover 1 mg dose.

12 15. By failing to document the disposal or "wasting" of Dilaudid on December 8th, 9th,
13 15th, and 16th, 2007, Respondent made grossly inconsistent entries in hospital or patient records:
14 records she created on these days showed that she would withdraw 4 mg of Dilaudid from the
15 dispensing machine but would only administer 3 mg of it to patients, creating a gross
16 inconsistency between the dispensing records and the medication administration record or the
17 nurse's notes.

18 16. Similarly, by failing to document the administration of KCL on December 2nd and
19 7th, 2007, Respondent also made grossly inconsistent entries in hospital or patient records: she
20 documented the withdrawal of this medication from the dispensing machine, but did not
21 document its administration in the medication administration record or the nurse's notes. This
22 could result in the patient being administered a double dose of the medication.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct - Gross Negligence)**

25 17. Respondent is subject to disciplinary action under section 2761(a)(1) in conjunction
26 with Title 16 section 1442 for gross negligence as follows:

27 a. Paragraph 14, including subparagraphs a-h, and paragraph 15 above, are realleged
28 herein and incorporated by this reference.

1 b. By repeatedly failing to properly document the disposal or wasting of excess 1 mg
2 doses of the opiate Dilaudid on December 8, 9, 15, and 16, 2007, Respondent repeatedly failed to
3 provide nursing care as required by hospital procedures and practices. Respondent's repeated
4 failure to comply with these procedures when administering Dilaudid constitutes an extreme
5 departure from the standard of care which, under similar circumstances, would have ordinarily
6 been exercised by a competent registered nurse.

7 c. By repeatedly documenting the overadministration of Dilaudid and Vicodin to a
8 patient on December 15 to 16, 2007 contrary to a physician's prescription, Respondent repeatedly
9 failed to provide nursing care as required. Respondent either gave the patient twice the
10 recommended doses of these powerful controlled substances, endangering the patient's health, or
11 misappropriated the excess Dilaudid or Vicodin for her own purposes, either of which are
12 extreme departures from the standard of care.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 18. Respondent is subject to disciplinary action under section 2761(a) for unprofessional
16 conduct for repeatedly failing to properly document the disposal or wasting of excess 1 mg doses
17 of the opiate Dilaudid on December 8, 9, 15, and 16, 2007 and for either overadministering
18 Dilaudid and Vicodin on December 15 and 16, 2007 or misappropriating it. Paragraph 14,
19 including subparagraphs a-h, and paragraph 15 above, are realleged herein and incorporated by
20 this reference.

21 **DISCIPLINARY CONSIDERATIONS**

22 19. To determine the degree of discipline, if any, to be imposed on Respondent,
23 Complainant alleges that on or about February 9, 1999, in a prior disciplinary action entitled "In
24 the Matter of the Accusation Against Robyn L. Heen," Case No. 97-2, the Board of Registered
25 Nursing adopted a stipulated settlement and disciplinary order under which Respondent agreed to
26 accept and comply with the Board's imposition of three years' probation, including terms and
27 conditions relating to substance abuse. The underlying charges alleged that Respondent had
28 violated sections 2761(a) (unprofessional conduct) and 2762(b) (dangerous use of alcohol or

1 controlled substance) in 1991 and 1992. That decision is now final and is incorporated by
2 reference as if fully set forth.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Revoking or suspending Registered Nurse License Number RN 358135, issued to
7 Robyn Heen;
8 2. Revoking or suspending Public Health Nurse Certificate Number 34487, issued to
9 Robyn Heen;
10 3. Ordering Robyn Heen to pay the Board of Registered Nursing the reasonable costs of
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;
13 4. Taking such other and further action as deemed necessary and proper.

14
15
16 DATED: August 10, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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3 BEFORE THE
4 BOARD OF REGISTERED NURSING
5 DEPARTMENT OF CONSUMER AFFAIRS
6 STATE OF CALIFORNIA

7 In the Matter of the Accusation)
8 Against:)

9 ROBYN L. HEEN)
10 P.O. BOX 22113)
11 SANTA BARBARA, CA 93121)

CASE NO. 97-2

12 Registered Nurse License No.)
13 358135)

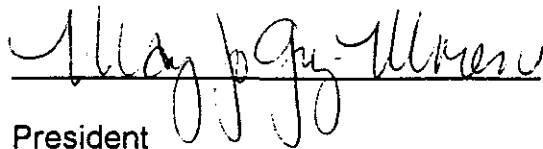
14 DECISION

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16 The attached Stipulation for Settlement is hereby adopted by the Board of
17 Registered Nursing as its decision in the above-entitled matter.

18 This decision shall become effective on MARCH 11, 1999.

19
20 IT IS SO ORDERED this 9th day of FEBRUARY,

21 1999.

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24 

25 President
26 Board of Registered Nursing
27

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of the State of California
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6 Attorneys for Complainant
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8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. 97-2
Against:)
12)
13 ROBYN L. HEEN, R.N.) STIPULATED SETTLEMENT
~~1138 Ferrello Road~~ P.O. Box 22113) AND DISCIPLINARY ORDER
Santa Barbara, CA 93103 ~~Santa Barbara,~~
14 Registered Nurse License : CA 93121
No. 358135,,)
15)
16 Respondent.)

17 IT IS HEREBY STIPULATED AND AGREED by and between the
18 parties to the above-entitled proceedings that the following
19 matters are true:

20 1. An Accusation, No. 97-2, is currently pending
21 against Robyn L. Heen, R.N. (hereinafter "Respondent"). Said
22 Accusation having been filed with the Board on July 11, 1996.

23 2. The Accusation, together with all other
24 statutorily required documents, was duly served on Respondent on
25 or about July 24, 1996, and Respondent filed her Notice of
26 Defense contesting the Accusation on or about August 6, 1996. A

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1 copy of Accusation No. 97-2 is attached as Attachment "A" and
2 incorporated by reference as if fully set forth.

3 3. The Complainant, Ruth Ann Terry, M.P.H., R.N., was
4 the Executive Officer of the Board of Registered Nursing
5 (hereinafter the "Board") and brought this action solely in her
6 official capacity.

7 4. At all times relevant herein, Respondent has been
8 licensed by the Board of Registered Nursing under Registered
9 Nurse License No. 358135.

10 5. Respondent understands the nature of the charges
11 alleged in the Accusation as constituting cause for imposing
12 discipline upon her license to practice as a Registered Nurse.
13 Respondent is fully aware of her right to a hearing on the
14 charges and allegations contained in said Accusation, her right
15 to confront and cross-examine witnesses against her, her right to
16 reconsideration, appeal, and all other rights accorded pursuant
17 to the California Business and Professions Code and Government
18 Code and, with this in mind, freely, voluntarily, and irrevocably
19 waives such rights.

20 6. For purposes of resolution of this matter only,
21 Respondent admits the truth of each and every allegation of
22 Accusation No. 97-2, and agrees that Respondent has thereby
23 subjected her license to disciplinary action. Respondent agrees
24 to the Board's Disciplinary Order as set out in the Order below.

25 7. In consideration of the foregoing admissions and
26 findings, the parties agree that the Board shall, without further
27 notice or formal proceeding, issue and enter an Order as follows:

1 ORDER

2 IT IS HEREBY ORDERED that Registered Nurse License
3 No. 358135 issued to Robyn L. Heen, R.N., is revoked. However,
4 the revocation is stayed and Respondent is placed on probation
5 for three (3) years on the following terms and conditions:

6 7. OBEY ALL LAWS

7 Respondent shall obey all federal, state, and local
8 laws, and all rules and regulations of the Board of Registered
9 Nursing governing the practice of nursing in California. A full
10 and detailed account of any and all violations of law shall be
11 reported by Respondent to the Board in writing within seventy-two
12 (72) hours of occurrence. To permit monitoring of compliance
13 with this term, Respondent shall submit completed fingerprint
14 cards and fees within 45 days of the effective date of the
15 decision, unless previously submitted as part of the licensure
16 application process.

17 8. COMPLY WITH PROBATION PROGRAM

18 Respondent shall fully comply with the terms and
19 conditions of the Probation Program established by the Board and
20 cooperate with representatives of the Board in its monitoring and
21 investigation of Respondent's compliance with the Program.
22 Respondent shall inform the Board in writing within no more than
23 15 days of any address change and shall at all times maintain an
24 active, current license status with the Board, including during
25 any period of suspension.

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1 9. **REPORT IN PERSON**

2 Respondent, during the period of probation, shall
3 report in person at interviews/meetings as directed by the Board
4 or its designated representatives.

5 10. **ABSENCE FROM STATE**

6 Periods of residency or practice outside of California
7 will not apply to the reduction of this probationary term. The
8 Respondent must provide written notice to the Board within
9 fifteen (15) days of any change of residence or practice outside
10 the state.

11 11. **SUBMIT WRITTEN REPORTS**

12 Respondent, during the period of probation, shall
13 submit such written reports/declarations and verification of
14 actions under penalty of perjury, as are required. These
15 declarations shall contain statements relative to Respondent's
16 compliance with all the terms and conditions of the Board's
17 Probation Program. Respondent shall immediately execute all
18 release of information forms as may be required by the Board or
19 its representatives.

20 12. **FUNCTION AS A REGISTERED NURSE**

21 Respondent, during the period of probation, shall
22 engage in the practice of professional nursing in California for
23 a minimum of twenty-four (24) hours per week (or as determined by
24 the Board) for six (6) consecutive months. Per section 2732 of
25 the Business and Professions Code, no person shall engage in the
26 practice of registered nursing without holding a license which is
27 in an active status.

1 13. **NURSING PRACTICE**

2 The Board shall be informed of, and approve of, each
3 agency for which Respondent provides nursing services prior to
4 Respondent's commencement of work. Respondent shall inform her
5 employer of the reason for, and the terms and conditions of,
6 probation and shall provide a copy of the Board's Decision and
7 Order to her employer and immediate supervisor. The employer
8 shall submit performance evaluations and other reports as
9 requested by the Board. Respondent is also required to notify
10 the Board in writing within seventy-two (72) hours after
11 termination of any nursing employment. Any notification of
12 termination shall contain a full explanation of the circumstances
13 surrounding it.

14 14. **SUPERVISION**

15 The Board shall be informed of, and approve of, the
16 level of supervision provided to Respondent while she is
17 functioning as a registered nurse. The appropriate level of
18 supervision must be approved by the Board prior to commencement
19 of work. Respondent shall practice only under the direct
20 supervision of a registered nurse in good standing (no current
21 discipline) with the Board of Registered Nursing.

22 15. **EMPLOYMENT LIMITATIONS**

23 Respondent may not work for a nurse registry; temporary
24 nurse agency; home care agency; in-house nursing pool; as a
25 nursing supervisor; as a faculty member in an approved school of
26 nursing; or an instructor in a Board-approved continuing
27 education program. Respondent must work only on regularly

1 assigned, identified, and predetermined worksite(s) with
2 appropriate supervision as approved by the Board.

3 **16. COMPLETE A NURSING COURSE**

4 Respondent, at her expense, shall begin and
5 successfully complete a course(s) in nursing as directed by the
6 Board prior to engaging in the practice of nursing and prior to
7 the end of the probationary term.

8 Respondent may be suspended from practicing nursing
9 until the necessary coursework is completed. The content of such
10 course(s), and the place and conditions of instruction, shall be
11 specified by Board representatives at the time of the initial
12 probation meeting based on the nature of the violation(s).

13 Specific courses must be approved prior to enrollment.

14 Respondent must submit to the Board written proof of enrollment
15 and proof of successful completion. Transcripts or certificates
16 of completion must be mailed directly to the Board by the agency
17 or entity instructing Respondent.

18 Home study or correspondence courses are not acceptable
19 and will not be approved.

20 **17. PHYSICAL EXAMINATION**

21 Respondent, at her expense, within 45 (forty-five) days
22 of the effective date of this Decision, shall have a licensed
23 physician specializing in chemical dependency submit, in a format
24 acceptable to the Board, an assessment of Respondent's physical
25 condition and capability to perform the duties of a professional
26 registered nurse. If medically determined, a recommended
27 treatment program will be instituted and followed by Respondent

1 with the physician providing written reports to the Board on
2 forms provided by the Board.

3 18. **REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE**

4 Respondent, at her expense, shall successfully complete
5 a treatment/rehabilitation program of at least six (6) months
6 duration approved by the Board. Reports shall be submitted by
7 the program on forms provided by the Board. If Respondent has
8 not completed a treatment program prior to the commencement of
9 probation, Respondent, within a reasonable period of time as
10 determined by the Board, but not exceeding 45 (forty-five) days
11 from the effective date of the Decision, shall be enrolled in a
12 treatment program. If a treatment program is not successfully
13 completed within the first nine (9) months of probation, the
14 Board will consider Respondent to be in violation of probation
15 and will initiate further disciplinary action against
16 Respondent's license.

17 In addition, Respondent must attend two "twelve-step"
18 recovery meetings per week (e.g. Narcotics Anonymous, Alcoholic
19 Anonymous, etc.) and a nurse support group as directed by the
20 Board. If a nurse support group is not available, an additional
21 "twelve-step" meeting must be added. Respondent must submit
22 dated and signed documentation confirming such attendance to the
23 Board during the entire period of probation.

24 19. **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)**
25 **DRUGS**

26 Respondent shall completely abstain from the
27 possession, injection, or consumption by any route of all

1 psychotropic (mood-altering) drugs, including alcohol, except
2 when the same are lawfully prescribed by a licensed physician or
3 dentist as part of documented medical treatment. Respondent
4 shall have sent to the Board within fourteen (14) days, by the
5 prescribing physician or dentist, a written report identifying
6 the medication, dosage, the date the medication was prescribed,
7 Respondent's prognosis, and the date the medication will no
8 longer be required.

9 Respondent shall identify for the Board the single
10 physician who shall be informed of Respondent's history of
11 substance abuse. Respondent shall fully cooperate with the
12 physician to coordinate and monitor any prescriptions for
13 dangerous drugs, controlled substances, or mood-altering drugs
14 prescribed to Respondent. The coordinating physician must report
15 to the Board on a quarterly basis Respondent's compliance with
16 this condition and a program for the time-limited use of any
17 addictive substances. The Board may require that the single
18 coordinating physician be a specialist in addictive medicine.

19 **20. SUBMIT TO TESTS AND SAMPLES**

20 Respondent, at her expense, shall participate in a
21 random Board-approved biological fluid testing or drug screening
22 program. The length of time and frequency will be subject to
23 approval by the Board. Respondent is responsible for ensuring
24 that reports are submitted directly by the testing agency to the
25 Board, as directed. Any confirmed positive finding shall be
26 reported immediately to the Board by the program and Respondent
27 will be considered in violation of probation.

1 In addition, Respondent, at any time during the period
2 of probation, shall fully cooperate with the Board or any of its
3 representatives, and shall, when requested, submit to such tests
4 and samples as the Board or its representatives may require for
5 the detection of alcohol, narcotics, hypnotics, dangerous drugs,
6 or other controlled substances.

7 If, while on probation, Respondent submits a positive
8 drug screen for any substance, including alcohol, not prescribed
9 by a physician or dentist and reported to the coordinating
10 physician, Respondent's license shall be immediately suspended and
11 the Board shall file either a petition to revoke probation or an
12 accusation against Respondent's license. Respondent's license
13 shall remain suspended pending the final decision on the petition
14 to revoke or accusation.

15 **21. MENTAL HEALTH EXAMINATION**

16 Respondent shall, within forty-five (45) days of the
17 effective date of this Decision, have a mental health examination
18 including psychological testing as appropriate to determine her
19 capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist, or
21 other licensed mental health practitioner approved by the Board.
22 The examining mental health practitioner will submit a written
23 report of that assessment and attendant recommendations to the
24 Board. All costs are the responsibility of Respondent.
25 Recommendations for treatment, therapy, or counseling made as a
26 result of the mental health examination will be instituted and
27 followed by Respondent.

1 22. **THERAPY OR COUNSELING PROGRAM**

2 Respondent, at her expense, shall participate in an
3 ongoing counseling program until such time as the Board releases
4 her from this requirement and only upon the recommendation of the
5 counselor. Written progress reports from the counselor will be
6 required at various intervals.

7 23. **VIOLATION OF PROBATION**

8 If a Respondent violates the conditions of her
9 probation, the Board after giving the Respondent notice and an
10 opportunity to be heard, may set aside the stay order and impose
11 the stayed discipline (revocation/suspension) of the Respondent's
12 license.

13 If during the period probation, an accusation or
14 petition to revoke probation has been filed against Respondent's
15 license or the Attorney General's Office has been requested to
16 prepare an accusation or petition to revoke probation against the
17 Respondent's license, the probationary period shall automatically
18 be extended and shall not expire until the accusation or petition
19 has been acted upon by the Board. Upon successful completion of
20 probation, the Respondent's license will be fully restored.

21 24. **COMPLETION OF PROBATION**

22 Respondent's license shall be fully restored upon
23 successful completion of probation.

24 25. **COST RECOVERY**

25 Respondent shall make cost recovery to the Board
26 pursuant to Business and Professions Code Section 125.3 payable
27 in the amount of four thousand dollars (\$4,000.00). Such payment

1 shall be made payable to the Board of Registered Nursing by
2 certified check or money order on the face of which indicates
3 that this is cost recovery in Case No. 97-2.

4 26. Respondent shall make payment of the aforesaid
5 four-thousand dollars (\$4,000.00) as follows: (a) The first
6 payment of three hundred thirty-three dollars and thirty-four
7 cents (\$333.34) is due and payable by April 30, 1998.

8 (b) The remaining eleven (11) payments of three hundred thirty-
9 three dollars and thirty-three cents (\$333.33) shall be due and
10 payable each quarter thereafter, no later than the last day of
11 the month.

12 27. Respondent agrees to pay in full satisfaction of
13 costs the above-said payments pursuant to the above-said
14 schedule.

15 28. The within Stipulation shall be subject to the
16 approval of the Board. If the Board fails to adopt this
17 Stipulation as its Order, the Stipulation shall be of no force or
18 effect for either party.

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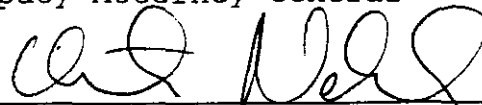
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ENDORSEMENT

I concur in the Stipulation and Order.

DATED: 6/18/95.

DANIEL E. LUNGREN, Attorney General
of the State of California
CHRISTINA M. NEBELING,
Deputy Attorney General



CHRISTINA M. NEBELING
Deputy Attorney General

Attorneys for Complainant

* * * * *

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5 Attorneys for Complainant
6
7

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation)
12 Against:)

No. 97-2

)
ACCUSATION
)

13 ROBYN L. HEEN)
1138 Ferrelo Road)
14 Santa Barbara, California 93103)
Registered Nurse License)
15 No. 358135,)

16 Respondent.)
17

18 Ruth Ann Terry, M.P.H., R.N., for causes for
19 discipline, alleges:
20

21 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and
22 files this Accusation in her official capacity as Executive
23 Officer, Board of Registered Nursing, Department of Consumer
24 Affairs.
25

26 2. On or about March 31, 1983, the Board of Registered
27 Nursing issued registered nurse license number 358135 to

1 Robyn L. Heen. The license was in full force and effect at all
2 times pertinent herein and has been renewed through
3 July 31, 1996.

4
5 3. Under Business and Professions Code section 2750,
6 the Board of Registered Nursing may discipline any licensee,
7 including a licensee holding a temporary or inactive license, for
8 any reason provided in Article 3 of the Nursing Practice Act.

9 Under Business and Professions Code section 490, the
10 Board of Registered Nursing may suspend or revoke a license when
11 it finds that the licensee has been convicted of a crime
12 substantially related to the qualifications, functions, or duties
13 of a registered nurse.

14 Under Business and Professions Code section 125.3, the
15 Board may request the administrative law judge to direct a
16 licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs
18 of the investigation and enforcement of the case.

19
20 4. Respondent has subjected her license to discipline
21 under Business and Professions Code section 2761(a), on the
22 grounds that she has engaged in unprofessional conduct, as
23 defined by Business and Professions Code section 2762(b), in that
24 she has used controlled substances or alcohol to an extent and in
25 a manner dangerous or injurious to herself or others, to the
26 extent that such use impairs her ability to conduct with safety
27 to the public the practice authorized by her license. The

1 circumstances are as follows:

2 A. During the year 1991, while employed as a
3 registered nurse at Ojai Valley Community Hospital,
4 Respondent was confronted by her supervisors regarding her
5 excessive absenteeism. Respondent admitted at that time to a
6 problem with alcohol, and agreed to enter an in-house treatment
7 program. Respondent completed the program in November of 1991
8 and returned to work, but her absenteeism continued and she was
9 terminated by the Hospital in December of 1991.

10 B. On or about December 16, 1991, Respondent was
11 arrested by the Ventura Police Department and charged with a
12 violation of Health and Safety Code section 11550 (under the
13 influence of a controlled substance). Respondent admitted
14 consuming large amounts of vodka as well as doing multiple
15 lines of cocaine in the 24 hours prior to her arrest.

16 C. On or about January 26, 1992, Respondent was
17 arrested by the Ventura Police Department and charged with a
18 violation of Health and Safety Code section 11368 (forging a
19 prescription). Respondent admitted phoning in a
20 prescription for Librium to a pharmacy in the name of a
21 friend, and further admitted she needed the Librium to help
22 her get over her ongoing alcohol problems. Respondent was
23 subsequently charged for this offense in case number
24 92C000791 of the Ventura County Municipal Court entitled
25 "The People of the State of California v. Robyn L. Heen."
26 The matter was resolved by Penal Code section 1000
27 diversion.

1 D. Respondent then entered an resident alcohol
2 dependency program from February of 1992 through May of
3 1993, when she left the program and moved into her own
4 residence. She relapsed in March of 1994, and re-entered
5 the resident program until October of 1994.

6 E. Concurrently, Respondent obtained employment as a
7 registered nurse at Sansum Medical Clinic in Santa Barbara
8 in July of 1992. In July of 1995, Respondent was terminated
9 by the Clinic for excessive absenteeism.

10 F. In August of 1995, Respondent entered Cottage
11 Hospital in Santa Barbara for treatment of alcohol
12 dependency. She was subsequently seen for alcohol
13 counseling at Cottage Care Center, and was discharged on or
14 about September 1, 1995.

15
16 5. Respondent has subjected her license to discipline
17 under Business and Professions Code section 2761(a) on the
18 grounds that she has engaged in unprofessional conduct, as
19 defined by Business and Professions Code section 2762(c), in that
20 she has been convicted of a criminal offense involving the
21 prescription, consumption, or self-administration of controlled
22 substances. The circumstances are as follows:

23 A. Paragraph 4, subparagraph (B) is herein
24 incorporated by reference as if set forth in full.

25 B. Paragraph 4, subparagraph (C) is herein
26 incorporated by reference as if set forth in full.

1 6. Respondent has subjected her license to discipline
2 under Business and Professions Code section 490 in that she was
3 convicted of a crime substantially related to the qualifications,
4 functions, or duties of a registered nurse. The circumstances
5 are as follows:

6 A. Paragraph 4, subparagraph (B) is herein
7 incorporated by reference as if set forth in full.

8 B. Paragraph 4, subparagraph (C) is herein
9 incorporated by reference as if set forth in full.

10
11 WHEREFORE, Complainant prays that a hearing be held and
12 that the Board of Registered Nursing make its order:

13 1. Revoking or suspending registered nurse license
14 number 358135, previously issued to Robyn L. Heen;

15 2. Ordering Robyn L. Heen to pay to the Board of
16 Registered Nursing its costs and charges in investigating and
17 enforcing the case according to proof at hearing, pursuant to
18 Business and Professions Code section 125.3; and

19 3. Taking such other and further action as may be
20 deemed necessary and proper.

21 DATED: July 11, 1996

Ruth Ann Terry

RUTH ANN TERRY, M.P.H, R.N.
Complainant